

JAN 16 2009

Board of Vocational Nursing  
and Psychiatric Technicians

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**BEFORE THE  
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:  
  
JOSE QUINONEZ  
549 Silverwood Street  
Imperial, CA 92251  
  
Vocational Nurse License No. VN 221923  
  
Respondent.

Case No. VN-2008-192

**ACCUSATION**

Complainant alleges:

**PARTIES**

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs.
2. On or about July 27, 2006, the Board of Vocational Nursing and Psychiatric Technicians issued Vocational Nurse License Number VN 221923 to Jose Quinonez (Respondent). The Vocational Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2010, unless renewed.

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1                   8.       Section 2878 of the Code states:

2                   The Board may suspend or revoke a license issued under this chapter [the  
3                   Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of  
4                   the following:

5                   (a) Unprofessional conduct, which includes, but is not limited to, the  
6                   following:

7                   (b) Procuring a certificate by fraud, misrepresentation, or mistake.

8                   .....

9                   (f) Conviction of a crime substantially related to the qualifications,  
10                  functions, and duties of a licensed vocational nurse, in which event the record of  
11                  the conviction shall be conclusive evidence of the conviction.

12                  .....

13                  (k) The commission of any act punishable as a sexually related crime, if  
14                  that act is substantially related to the duties and functions of the licensee.

15                  .....

16                   9.       California Code of Regulations, title 16, section 2521, states:

17                   For the purposes of denial, suspension, or revocation of a license pursuant  
18                   to Division 1.5 (commencing with Section 475) of the Business and Professions  
19                   Code, a crime or act shall be considered to be substantially related to the  
20                   qualifications, functions or duties of a licensed vocational nurse if to a substantial  
21                   degree it evidences present or potential unfitness of a licensed vocational nurse to  
22                   perform the functions authorized by his license in a manner consistent with the  
23                   public health, safety, or welfare. Such crimes or acts shall include but not be  
24                   limited to those involving the following:

25                   (a) Procuring a license by fraud, misrepresentation, or mistake.

26                   (b) A conviction of practicing medicine without a license in violation of  
27                   Chapter 5 of Division 2 of the Business and Professions Code.

28                   (c) Violating or attempting to violate, directly or indirectly, or assisting in  
                  or abetting the violation of, or conspiring to violate any provision or term of  
                  Chapter 6.5, Division 2 of the Business and Professions Code.

                  (d) Aiding or assisting, or agreeing to aid or assist any person or persons,  
                  whether a licensed physician or not, in the performance of or arranging for a  
                  violation of any of the provisions of Article 13, Chapter 5, Division 2 of the  
                  Business and Professions Code.

                  (e) Conviction of a crime involving fiscal dishonesty.

                  (f) Any crime or act involving the sale, gift, administration, or furnishing  
                  of "narcotics or dangerous drugs or dangerous devices" as defined in Section 4022  
                  of the Business and Professions Code.

10. California Code of Regulations, title 16, section 2522.5 states:

(a) When considering the suspension or revocation of a license on the ground that a licensed vocational nurse has been convicted of a crime, the Board, in evaluating the rehabilitation of such person and his eligibility for a license will consider the following criteria:

- (1) Nature and severity of the act(s) or offense(s).
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or offense(s).
- (4) Whether the licensee has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the licensee.
- (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
- (6) Evidence, if any, of rehabilitation submitted by the licensee.

....

11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

#### **FIRST CAUSE FOR DISCIPLINE**

##### **(November 6, 2007 Criminal Conviction for Lewd Acts & Indecent Exposure)**

12. Respondent has subjected his license to disciplinary action under sections 490 and 2878, subdivision (f) of the Code in that Respondent was convicted of a crime that is substantially related to the qualifications, functions, and duties of a licensed vocational nurse. The circumstances are as follows:

a. On or about November 6, 2007, in a criminal proceeding entitled *People of the State of California v. Jose Quinonez*, in Fresno County Superior Court, case number M02918222-1, Respondent was convicted by a jury of violating Penal Code sections 647, subdivision (a), soliciting a lewd act in a public place, and 314.1, indecent exposure.

///

1                   b.       As a result of the conviction, on or about December 11, 2007,  
2 Respondent was sentenced to two days in the county jail (with credit for two days served), three  
3 years conditional probation, and payment of fees, fines, and restitution in the amount of \$755.00.  
4 Respondent was also ordered to stay away from Roeding Park and Woodward Park in Fresno.

5                   c.       The facts that led to the conviction were that on or about  
6 September 25, 2002, undercover deputies for the Fresno County Sheriff's Department were  
7 working a lewd acts detail at Roeding Park in Fresno. Among those present in the park were  
8 approximately 40-50 children, ranging in age from three to five years old, and their adult  
9 chaperones from a local daycare center. The deputies observed the chaperones taking groups of  
10 children to the park's restrooms on several occasions.

11                   d.       At approximately 12:48 p.m., an undercover deputy entered  
12 restroom #2, walked to the rear of the restroom, and stood against the wall. Respondent entered  
13 the restroom and went to a stall; he left the stall door open and dropped his shorts to his knees.  
14 Respondent then faced the undercover deputy and began masturbating. After masturbating for  
15 approximately five minutes, Respondent took a step forward and grabbed the crotch area of the  
16 undercover deputy. The deputy backed away from Respondent to prevent Respondent from  
17 touching him again. Respondent put his shorts back on. The deputy stated that he thought he  
18 heard someone coming. While the deputy was looking out the door of the restroom, Respondent  
19 approached the deputy and grabbed his crotch again. The deputy then departed the restroom.

20                   e.       The undercover deputy observed Respondent leave the restroom  
21 approximately five minutes later and drive away in a Hyundai. A records check revealed that the  
22 vehicle was registered to Respondent, and Respondent's driver's license depicted the same  
23 person who committed the lewd acts in the restroom.

24                   f.       On the same day, at approximately 12:53 p.m., a second  
25 undercover deputy from the Fresno County Sheriff's Department was conducting surveillance of  
26 Roeding Park in the vicinity of restroom #5. The deputy observed adults taking groups of  
27 children to restroom #5. The deputy parked his undercover vehicle near the restroom. The  
28 undercover deputy had been waiting near the restroom entrance for approximately two minutes

1 when Respondent parked his Hyundai at the curb near restroom #5. Respondent entered the  
2 restroom. Two minutes later, the deputy entered the restroom. Respondent was standing in the  
3 middle of the restroom with his hands in his shorts. The deputy walked to the sinks and washed  
4 his hands; when he turned to look at Respondent, Respondent had pulled down the front of his  
5 shorts and was masturbating. The deputy walked towards the door and stood at the open  
6 doorway. Respondent turned towards the deputy and continued to masturbate while exposing his  
7 penis. The deputy left the restroom and conducted a records check on Respondent's vehicle.  
8 The Hyundai was registered to Respondent and the CAL-PHOTO system returned Respondent's  
9 driver's license. The deputy recognized the photo on the driver's license as the same person he  
10 observed masturbating in restroom #5.

## 11 **SECOND CAUSE FOR DISCIPLINE**

### 12 **(Unprofessional Conduct - Commission of a Sexually Related Crime)**

13 13. Respondent has subjected his license to disciplinary action under section  
14 2878, subdivision (k) of the Code in that on or about September 25, 2007, while in two different  
15 restrooms in a public park, in the middle of the day and in close proximity to children,  
16 Respondent exposed his penis, masturbated, and grabbed the crotch area of an undercover  
17 sheriff's deputy. Respondent was convicted of violating Penal Code sections 647, subdivision  
18 (a), soliciting a lewd act in a public place, and 314.1, indecent exposure, as more fully described  
19 in paragraph 12, above.

## 20 **THIRD CAUSE FOR DISCIPLINE**

### 21 **(Procuring a Certificate by Fraud, Misrepresentation, or Mistake)**

22 14. Respondent has subjected his license to disciplinary action under section  
23 2878, subdivision (b) of the Code in that he made a material misrepresentation on his renewal  
24 application for a vocational nurse license. The circumstances are that on or about December 9,  
25 2007, Respondent signed his renewal application for a vocational nurse license. The renewal  
26 application required Respondent to answer the following question:

27 Since you last renewed your license, have you been convicted of or pled  
28 nolo contendere to any violation of any law of any state in the United States or a  
foreign country?


1 In response to the question, Respondent marked the box labeled "G" ("NO"). By  
2 Respondent's signature, he swore under penalty of perjury under the laws of the State of  
3 California that his responses were true and correct. Respondent's representation that he had no  
4 criminal conviction was not true in that on or about November 6, 2007, Respondent was  
5 convicted by a jury of soliciting a lewd act and indecent exposure, as described more fully in  
6 paragraph 12, above.

7 **PRAYER**

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
9 alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric  
10 Technicians issue a decision:

- 11 1. Revoking or suspending Vocational Nurse License Number VN 221923,  
12 issued to Jose Quinonez;
- 13 2. Ordering Jose Quinonez to pay the Board of Vocational Nursing and  
14 Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case,  
15 pursuant to Business and Professions Code section 125.3;
- 16 3. Taking such other and further action as deemed necessary and proper.

17  
18 DATED: January 16, 2009

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22 TERESA BELLO-JONES, J.D., M.S.N., R.N.  
23 Executive Officer  
24 Board of Vocational Nursing and Psychiatric Technicians  
25 Department of Consumer Affairs  
26 State of California  
27 Complainant  
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